



Air Transport Association

August 27, 2009

***Via Electronic Submittal***

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**Re: Proposed Amendment of Regulations Implementing the California  
Environmental Quality Act (CEQA)**

Dear Mr. Calfee:

The Air Transport Association of America, Inc. (ATA)<sup>1</sup> is pleased to have this opportunity to comment on the California Natural Resources Agency's (Resources Agency) Proposed Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas (GHG) Emissions (Proposed Amendments). As the leading voice of the major scheduled air carriers in the United States, ATA is actively engaged on all aspects of the environmental impacts of aviation. We support the public disclosure and mitigation goals that are at the heart of CEQA and take our role in controlling GHG emissions particularly seriously, as we have for many years. These goals must be pursued within the context of overlapping, pervasive federal regulation of aviation and, as such, state and local agencies must clearly understand that aircraft operations are beyond their authority to regulate directly or indirectly. In that spirit, we request that the Proposed Amendments be revised in several respects to reflect appropriately the limits of state and local authority.

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<sup>1</sup> ATA is the principal trade and service organization of the U.S. airline industry, and ATA's airline members and their affiliates transport more than 90 percent of all U.S. airline passenger and cargo traffic. In this capacity, ATA regularly comments on federal and state regulatory developments that may affect the airline industry. The members of ATA are: ABX Air, AirTran Airways, Alaska Airlines, American Airlines, ASTAR Air Cargo, Atlas Air, Continental Airlines, Delta Air Lines, Evergreen International Airlines, Federal Express, Hawaiian Airlines, JetBlue Airways, Midwest Airlines, Southwest Airlines, United Airlines, UPS Airlines, and US Airways; the associate members are: Air Canada, Air Jamaica, and Mexicana.

## **Introduction**

We understand that part of the Resources Agency's mandate under Senate Bill 97 (2007) is to certify and adopt guidelines prepared and developed by the Office of Planning and Research "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." Cal. Pub. Res. Code § 21083.05(a)-(b). In the Governor's signing message for Senate Bill 97, he stated that current uncertainty as to what type of analysis of greenhouse gas emissions is required under CEQA has led to legal claims being asserted that would stop certain important state infrastructure projects.<sup>2</sup> The Governor emphasized that "[l]itigation under CEQA is not the best approach to reduce greenhouse gas emissions and maintain a sound and vibrant economy" and he expressed his support for CEQA regulations that would "provide predictability to California public agencies and businesses and achieve our goal to reduce greenhouse gas emissions to 1990 levels."

To leave the Guidelines in their current form, without clarifying that State and local agencies are without authority to regulate aircraft emissions or activities associated with the operation of aircraft, could result in confusion that would leave airport-related projects vulnerable to burdensome and unnecessary CEQA litigation. Congress reserved to the federal government exclusive authority to regulate aircraft emissions and operations and preempted states from adopting and enforcing regulations related to aircraft emissions and operations, whether directly or indirectly. ATA requests that the Resources Agency amend the Proposed Guidelines to reflect appropriately this aspect of federal preemption. Specifically, the Resource Agency should clarify the scope of aircraft-related GHG emissions that should be deemed attributable to a particular project and explicitly exclude such emissions from any significance analysis and any required mitigation under CEQA.

### *Placing Aviation-Related GHG Emissions in their Proper Context*

Before elaborating on these specific comments, it is important to emphasize again that the commercial aviation industry takes climate change very seriously. The sector's record with respect to GHG emissions is remarkable and unmatched by other industry sectors, whether inside or outside the transportation arena. Most notably, commercial airlines have an unparalleled record of improving fuel efficiency – and thus reducing GHG emissions – while continually driving economic growth. At the national level, commercial aviation accounts for about 2% of GHG emissions, but drives about 6% of gross domestic product. In California, as of 2006, aviation emissions account for only 0.7% of all GHG emissions and these emissions are already 26% below 1990 levels.<sup>3</sup> During this period (1990-2006),<sup>4</sup> commercial aviation has substantially

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<sup>2</sup> A copy of Governor Schwarzenegger's Senate Bill 97 signing message is available at: <http://www.opr.ca.gov/ceqa/pdfs/SB-97-signing-message.pdf>.

<sup>3</sup> All emissions data are from the California Air Resources Board (ARB). For detailed information and citations regarding emissions levels, see Attachment A, Table A.

increased its contribution to the California economy. For intra-California operations, revenue passenger miles have grown 21% since 1990, while cargo (measured in revenue ton miles) increased 426%.<sup>5</sup> In other words, even as the amount of service commercial aviation provides in California has increased substantially, our GHG emissions have decreased in absolute terms.<sup>6</sup>

Commercial aviation has been able to deliver these substantial economic benefits even while reducing emissions by continually reinvesting in technology and fuel efficient operations. And the aviation industry is dedicated to building upon this already strong record. ATA members have committed to improving fuel efficiency another 30% from 2005-2025. Further, recognizing that improving fuel efficiency with today's carbon-based fuel supply can only take us so far, ATA and its airlines are making extensive resource commitments to stimulate the development of commercially viable, environmentally friendly alternative fuels. As a framework for doing this, ATA is a founding and principal member of the Commercial Aviation Alternative Fuels Initiative (CAAFI), a consortium of airlines, government, manufacturers, fuel suppliers, universities, airports and other stakeholders who hold the various keys to research, development and responsible implementation of alternative jet fuels. Because developing alternative jet fuels presents a "higher hurdle" than doing so for ground-based units, due both to technological differences and because jet fuel must meet rigorous Federal Aviation Administration (FAA) specifications relating to aviation safety, without CAAFI fuel providers almost certainly would not undertake the investments needed to clear this higher hurdle. ATA airlines understand that they must not only make clear their specifications for alternative jet fuels, but also must signal the market that they will back fuels meeting those specifications.

Just last week, ATA announced that eight of its member airlines have signed an unprecedented agreement to purchase up to 1.5 million gallons per year of renewable synthetic diesel fuel (RenDiesel) for use in ground service equipment at Los Angeles International Airport (LAX) beginning in late 2012.<sup>7</sup> This agreement illustrates the ongoing, concrete commitment of commercial airlines to reduce their carbon footprints through all feasible, safe and economically viable means. Through CAAFI and other partnerships, ATA and its member airlines are

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<sup>4</sup> Comparisons of 1990 data are to 2006 because that is the most recent year included in the latest ARB GHG Inventory.

<sup>5</sup> All economic activity data is from Air Transport Association of America, Inc., Economics Department, derived from the U.S. Department of transportation T-100 Database. A summary of these figures is provided in Appendix A, Table B.

<sup>6</sup> As detailed in Attachment A, when interstate and international emissions are included, compared to 1990, GHG emissions in 2006 from commercial aviation have declined 12 percent in absolute terms, while passenger miles and cargo ton-miles have increased 75 percent and 127 percent, respectively. (ARB excluded interstate and international aviation emissions from the Inventory). It is also worth noting that commercial aviation's relative share of all California GHG emissions has declined since 1990.

<sup>7</sup> News Release, Air Transport Association, Airlines Sign First-of-its-Kind Ongoing Supply Agreement with Rentech and ASIG for Renewable Synthetic Diesel Fuel to be Used in LAX Ground Service Equipment (Aug. 18, 2009) available at: [http://www.airlines.org/news/releases/2009/news\\_8-18-09.htm](http://www.airlines.org/news/releases/2009/news_8-18-09.htm).

undertaking the work to ensure that tomorrow's alternative fuel meets that criterion of further environmental improvement.

## Comments

Under the Proposed Amendments, lead agencies would be required to describe, calculate or estimate the amount of GHG emissions resulting from a project. This is consistent with the CEQA purpose of providing decision-makers and the general public with information about the effect that a proposed project is likely to have on the environment. Cal. Pub. Res. Code § 21061. Where the lead agency concludes that emissions may result in a significant adverse environmental impact, CEQA requires that these impacts be mitigated or avoided whenever feasible. Cal. Pub. Res. Code §§ 21002; 14 Cal. Code Regs. § 15126.4(a). While ATA supports the full disclosure of GHG emissions associated with a project for purposes of technical and scientific analysis, we are concerned that lead agencies must take care to appropriately identify GHGs that may be fairly associated with an airport or airport project. We also are concerned that without proper guidance, lead agencies will be under pressure to consider for significance and mitigation purposes a much broader scope of GHG emissions than they have the authority to regulate.

### **A. Federal Law Preempts California's Authority to Regulate Aviation GHG Emissions**

Federal law clearly precludes state and local agencies from regulating aviation emissions under both the Clean Air Act and federal aviation laws. Section 233 of the Clean Air Act (CAA) explicitly preempts any States and their political subdivisions from "adopt[ing] or attempt[ing] to enforce any standard respecting emissions of any air pollution from any aircraft or engine thereof unless such standard is identical to a standard" established by the U.S. Environmental Protection Agency (EPA). 42 U.S.C. § 7573. Under CAA Section 231, EPA is vested with exclusive authority, in consultation with the FAA, to establish uniform aircraft emission standards that ensure passenger safety. EPA has repeatedly exercised this authority to promulgate increasingly stringent aircraft engine emission standards that are consistent with international standards such as the United Nations International Civil Aviation Organization (ICAO) standards.

Federal aviation law also independently preempts state or local agencies from regulating aviation operations. Courts have long held the Federal Aviation Act of 1958 creates a "uniform and exclusive system of federal regulation" of aircraft that preempts state and local regulation. *Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, 639 (1973); *see also American Airlines v. Department of Transp.*, 202 F.3d 788, 801 (5th Cir. 2000) (aviation regulation is an area where "[f]ederal control is intensive and exclusive") (quoting *Northwest Airlines, Inc. v. Minnesota*, 322 U.S. 292, 3030 (1944)). This pervasive federal regulatory scheme extends not only to aircraft in flight, but also to aircraft-related operations on the ground.<sup>8</sup> In addition, the Airline

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<sup>8</sup> *See e.g.*, 49 U.S.C. § 40103(b)(2)(B)-(C); *Burbank-Glendale-Pasadena Airport Authority v. City of Los Angeles*, 979 F.2d 1338, 1341 (9th Cir. 1992) (Federal Aviation Act preempts any regulatory "interference" with the "operations of aircraft" on the ground); *City of Houston v. FAA*, 679 F.2d 1184,

Deregulation Act (ADA) precludes states from “enact[ing] or enforce[ing] a law, regulation, or other provision having the force and effect of law related to a price, route or service.” 49 U.S.C. § 41713(b)(1). This language “express[es] a broad preemptive purpose,” and even indirect regulation of airlines by generally applicable state laws is preempted if those laws have “a significant effect” on rates, routes or services. *Morales v. Transworld Airlines*, 504 U.S. 374 (1992).<sup>9</sup> Recently, the Second Circuit acknowledged that the “Supreme Court has repeatedly emphasized the breadth of the ADA’s preemption provision,” and that the “majority of the circuits to have construed ‘service’ have held that the term . . . encompasses matters such as boarding procedures, baggage handling, and food and drink – matters incidental to and distinct from the actual transportation of passengers.” *ATA v. Cuomo*, 520 F.3d 218, 222-223 (2nd Cir. 2008). In this regard, it is worth noting that California airports have acknowledged the limits of their authority<sup>10</sup> and that the California Attorney General effectively has conceded in past positions the exclusive federal control over aircraft-related emissions.<sup>11</sup>

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1195 (5th Cir. 1982) (FAA has regulatory authority “not only [over] the corridors of air traffic, but the use of airports as well”).

<sup>9</sup> In 2008, the Supreme Court reaffirmed the broad scope of the preemption language included in the ADA. *See Rowe v. New Hampshire Motor Transport Association*, 128 S. Ct. 989, 995-996 (2008) (construing similar provision in related statute, using ADA precedent). Significantly, the *Rowe* Court held states could not circumvent preemption by asserting a “public health” purpose. *Id.* at 997-998.

<sup>10</sup> In responding to public comments on an Airport Master Plan EIR, the San Diego County Regional Airport Authority (SDCRAA) explained that “[u]nder the Airline Deregulation Act airport operators such as the SDCRAA have no legislative authority to either spread out operations or control airport operational levels. Airlines set their own schedules to meet passenger demand.” Final EIR, Airport Master Plan for San Diego Intl. Airport, Chapter 1, State Clearinghouse No. 2005091105 at 1-315, available at: [http://www.san.org/documents/amp/Apr08\\_EIR/CHAPTER\\_ONE\\_EXECUTIVE\\_SUMMARY.pdf](http://www.san.org/documents/amp/Apr08_EIR/CHAPTER_ONE_EXECUTIVE_SUMMARY.pdf) Similarly, relative to gate electrification, Los Angeles World Airports and the Federal Aviation Administration itself disavowed any authority to require airlines to make use of electrified gates:

It should be further noted that, regardless of the availability of the 400-Hz power and preconditioned air infrastructure at LAX, and regardless of the interpretation of Clean Air Act Section 233, neither LAWA nor FAA have express authority to require use of this infrastructure. The final decision on such use of the infrastructure remains the sole discretion of each aircraft pilot due to safety and other considerations. The decision to operate the APU on the aircraft is the responsibility of the pilot in command of the aircraft, and it must be consistent with the manufacturer’s recommendations on how to safely operate the aircraft. Each airline has its own set of rules on how they use the APU within the manufacturer’s envelop of usage.

LAX Master Plan Final EIS Responses to Comments at B2-10, available at: <http://www.laxmasterplan.org/docs/rod/Appendix%20B%20to%20Record%20of%20Decision.pdf>.

<sup>11</sup> In comments submitted on the U.S. EPA’s advance notice of proposed rulemaking regulating GHGs under the CAA, the State Attorney Generals for California and Connecticut acknowledge that airports consider the “control of emissions from many ground operations” to be “federally preempted.” Comments of CA Att’y Gen. E.G. Brown & CT Att’y Gen. R. Blumenthal on the EPA Advance Notice of

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Based on the federal preemption outlined above, mitigation measures designed to directly or indirectly address emissions related to aircraft operations are beyond the power of local agencies to impose, and are thus legally infeasible.<sup>12</sup> While an agency familiar with this specific area of preemption law may realize that they are not required to propose or analyze mitigation measures addressing these emissions,<sup>13</sup> many lead agencies may incorporate plans to mitigate emissions related to aircraft operations without awareness of the limitations until they are well down the path of regulation. It would be helpful if the Guidelines or associated text included some acknowledgement of limitations on California's authority to act under CEQA in areas where the federal government has already preempted the field.<sup>14</sup>

**B. Recommendations to Regulate GHG Emissions Occurring Outside the State are Contrary to the Limits on California's Jurisdiction**

Some suggest that California should cast a wide net (inclusive of GHG emissions that occur beyond California) for purposes of disclosing the full extent of GHG emissions associated with a given project.<sup>15</sup> As described in the sections above, ATA understands and is supportive of

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Proposed Rulemaking Regulating GHGs under the CAA, EPA-HQ-OAR-2008-0318 (Nov. 26, 2008) at 20-21, available at: [http://ag.ca.gov/cms\\_attachments/press/pdfs/n1635\\_ca\\_and\\_ct\\_comment\\_letter.pdf](http://ag.ca.gov/cms_attachments/press/pdfs/n1635_ca_and_ct_comment_letter.pdf). For their own part, the Attorneys General effectively concede that states do not have authority to act to control ground emissions when they assert "it is *essential that EPA* act to control [emissions from aircraft ground operations] as quickly as possible" (emphasis added). In addition, the comments pointedly do not dispute that regulation of emissions from aircraft in flight are federally preempted; instead, the comments acknowledge this preemption by requesting that EPA take action under CAA section 231 to set emission standards for air pollutants from aircraft engines. *Id.* at 18.

<sup>12</sup> See Cal. Pub. Res. Code § 21004; 14 Cal. Code Regs. § 15040(e) (the exercise of discretionary powers by public agencies in conjunction with CEQA "shall be consistent with express or implied limitations provided by other laws").

<sup>13</sup> See 14 Cal. Code Regs. § 15126.4(a)(5) ("If the Lead Agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed ... the EIR may simply reference that fact and briefly explain the reasons underlying the Lead Agency's determination").

<sup>14</sup> For example, the Initial Statement of Reasons (ISOR) for the Proposed CEQA Guideline Amendments states that "[m]any activities that will not be regulated by either AB32 or SB375 may still result in significant GHG emissions" and "if those emissions are determined to be significant" the lead agency is required "to implement mitigation to reduce those emissions." ISOR at 8. This statement (or any similar preamble associated with the Final Guidelines) should be modified to clarify that an agency is not required to propose or analyze mitigation measures that are legally preempted or otherwise infeasible. Such a clarification would be particularly relevant to activities that were intentionally excluded from the AB 32 framework due to preemption issues.

<sup>15</sup> See, e.g., Comment Letter from Dep. AG, H.M. Pollak on the Port of Long Beach Middle Harbor Redevelopment Project (Comment Letter) (August 14, 2008) at pp. 4-6, available at: [http://ag.ca.gov/globalwarming/pdf/comments\\_Port\\_of\\_Long\\_Beach.pdf](http://ag.ca.gov/globalwarming/pdf/comments_Port_of_Long_Beach.pdf). Note that the *Border Power*

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the need to gather complete GHG data to inform the technical and scientific examination of a project. However, it is important to remember that certain emissions included in a broader disclosure inventory are beyond the authority of the state to regulate under CEQA.<sup>16</sup> Several notable CEQA agreements and environmental review documents support the conclusion that while all relevant project GHG emissions should be disclosed in a general project inventory, there may be geographic boundaries on emissions that are analyzed and/or mitigated under a project's EIR.<sup>17</sup>

Furthermore, while the transportation sector subgroup of the state Air Resources Board's Economic and Technology Advancement and Advisory Committee (ETAAC) may "encourage[] state and local agencies" to set policies designed to address international GHG emissions (including airport landing fees), this does not mean that such action may legally be undertaken.<sup>18</sup> On the contrary, ARB has acknowledged the limitations on the state's power to regulate aviation.<sup>19</sup> The ARB specifically excluded emissions from international and interstate aviation

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*Plant Working Group v. Dept. of Energy*, 260 F.Supp.2d 997, 1014 (S.D. Cal. 2003), referenced in footnote 15 of the Comment Letter, is distinguishable in the transportation context and would yield an opposite conclusion regarding the need to analyze impacts when applied to interstate or international aircraft emissions.

<sup>16</sup> Under the analysis outlined in Section A, *supra*, federal law clearly precludes state and local agencies from regulating emissions related to aircraft operations whether these operations are intrastate, interstate, or international in nature. In addition, there are several other considerations specific to the aviation industry that are relevant to the scope of GHG emissions that may be appropriately attributed to any particular airport. *See, e.g.*, Attachment B, Public Comments Submitted by the ATA on The Climate Registry: General Reporting Protocol for the Voluntary Reporting Program.

<sup>17</sup> *See e.g.*, Memorandum of Understanding (MOU) Between the California Attorney General, Mayor of Los Angeles, the City of Los Angeles Harbor Department related to the Port of Los Angeles (Dec. 2007) at pp. 3; 5-6, available at: [http://ag.ca.gov/globalwarming/pdf/Port\\_of\\_Los\\_Angeles\\_Agreement.pdf](http://ag.ca.gov/globalwarming/pdf/Port_of_Los_Angeles_Agreement.pdf). This MOU specifies that for purposes of the Port-wide inventory of GHG emissions, "the geographic boundary ... [f]or all ships bound to and from Port terminals ... shall extend beyond the Port to encompass the point of origin/destination." In contrast, the Parties agree that the GHGs to be considered under the EIR (and under EIRs prepared for any specified future projects) shall be limited to those emissions that occur within California and the jurisdictional waters of the state (excluding other, international emissions from the EIR analysis).

<sup>18</sup> *See* California Air Resources Board, Recommendations of the Economic and Technological Advancement Advisory Committee (ETAAC Final Report)(February 11, 2008) at p. 3-32, available at <http://www.arb.ca.gov/cc/etaac/ETAACFinalReport2-11-08.pdf>. In this regard, it is worth noting that the ETAAC committee was formed to advise the Air Resources Board on activities to spur "technical research and development opportunities" (emphasis added) that will assist in the reduction of greenhouse gas emissions. Cal. Health & Safety Code § 38591(d). The committee is not necessarily qualified to make legal recommendations, which is likely why it recommends that agencies "consider actions under their current regulatory authority." *See id.*

<sup>19</sup> As noted by ARB in the AB 32 Scoping Plan, "Emissions from the fuel used in planes is an important consideration, however, the State does not have regulatory authority over aviation." Scoping Plan,

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from the proposed 2020 Emissions Limit under AB 32, explaining that, “[i]nternational guidance also recommends excluding bunker fuel emissions for all international aviation flights . . . (IPCC/UNEP/WMO 2006). In an effort to be consistent, we propose to exclude these emissions from the 1990 emissions level . . . we are also proposing to exclude greenhouse gas emissions from interstate flights, which is consistent with the international approach of including only those flights within a jurisdiction’s borders.”<sup>20</sup>

Finally, it should be noted that policies designed to address “leakage” in the energy context (where generation of energy/ emissions is shifted outside a jurisdiction’s boundaries, sometimes to avoid regulation and costs associated with those emissions within the jurisdiction) are not applicable and do not support the conclusion that California may regulate emissions from vessels operating outside the state’s jurisdictional boundaries.<sup>21</sup>

### **C. Regulation of Aviation GHG Emissions at the Local Level Would be Bad Policy**

Attempting to regulate GHG emissions through the proxy of project approvals is not only the sort of regulation that is clearly preempted by federal law, it also makes little sense from a policy standpoint. The emissions generated by aircraft departing or arriving in California may occur anywhere on the globe, and thus also may be subject to other regulatory regimes. It is for this practical reason that the U.S. has long maintained that under our federal system aviation must be regulated on a national basis. To the extent that intrastate aircraft emissions should be regulated (even indirectly), it must be done by the federal government and not the fifty different states, nor local jurisdictions that lack the specialized expertise required to grasp the implications

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Appendix C at C-56. The ARB also excluded aviation fuel from its Low-Carbon Fuel Standard, an AB 32 Discrete Early Action, because it recognized that the state lacks the authority to regulate in this area. *A Low-Carbon Fuel Standard for California, Part 2: Policy Analysis* at 29 (August 1, 2007) (available at: [http://www.arb.ca.gov/fuels/lcfs/lcfs\\_uc\\_p2.pdf](http://www.arb.ca.gov/fuels/lcfs/lcfs_uc_p2.pdf)) (“It appears that international treaties to which United States is a party prevent California from regulating aviation fuel, so the small amount of gasoline for small aircraft and a much larger amount of jet fuel are not covered by the LCFS.”)

<sup>20</sup> California Air Resources Board, Staff Report on the California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit (November 16, 2007) at 10, available at: [http://www.arb.ca.gov/cc/inventory/pubs/reports/staff\\_report\\_1990\\_level.pdf](http://www.arb.ca.gov/cc/inventory/pubs/reports/staff_report_1990_level.pdf).

<sup>21</sup> See e.g., California Energy Commission Committee Report: Committee Guidance on Fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts in Power Plant Siting Applications (CEC Publication No. CEC-700-2009-004)(March, 2009) available at: <http://www.valleyair.org/programs/CCAP/documents/CEC-700-2009-004.pdf>. Power plant emissions are not covered by the type of extensive national and international regulatory regimes applicable to aircraft and the policy considerations involved in the two sectors are not comparable. Although the consideration of GHG emissions from outside California might be necessary in the energy context where energy consumed here is generated outside the state to avoid regulation, this is not the case with aircraft emissions (*i.e.*, interstate and international aircraft emissions are not being “pushed offshore” to avoid regulation).



of regulation in this area. This is fundamental to our federal system. Further, it is only at the level of the federal government that the U.S. can engage with the rest of the world on this issue.<sup>22</sup>

### **Conclusion**

ATA respectfully submits that emissions associated with aviation operations may not be regulated through CEQA (either directly or indirectly) and requests that the Proposed CEQA Guidelines be revised to **clarify the scope of aircraft-related GHG emissions that should be deemed attributable to a particular project**, and to make clear that where federal preemption precludes state or local regulation of certain GHG emissions, these emissions are excluded from any significance analysis and mitigation requirements. As discussed in the Introduction section above, ATA and the airlines are and will remain highly focused on limiting fuel burn and resulting emissions, as well as on continuing our strong record of environmental improvement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Pohle', with a large, stylized initial 'P' at the start.

Tim Pohle  
Managing Director, U.S. Environmental Affairs &  
Assistant General Counsel

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<sup>22</sup> Commercial aviation is a global industry: a significant part of U.S. commercial airline operations are international. Accordingly, the federal government has coordinated development of policies affecting the aviation industry on the international level through the International Civil Aviation Organization (ICAO), which is charged with setting noise and emissions standards for aircraft. Recognizing that coordination between countries is needed to facilitate international aviation, ICAO has been charged with establishing standards and recommended practices for international aviation pursuant to the Convention on International Civil Aviation, commonly referred to as the “Chicago Convention.” 190 countries, including the U.S., are parties to the Chicago Convention. These same concerns led the Intergovernmental Panel on Climate Change (IPCC) to call for emissions from international aviation to be separated out into an “international” emissions category maintained and reported at the federal level by the relevant country. See IPCC, *2006 Guidelines for National Greenhouse Gas Inventories*, available at: <http://www.ipcc-nggip.iges.or.jp/public/2006gl/index.html>.

## ATTACHMENT A

### EMISSIONS AND ECONOMIC ACTIVITY DATA

**Table A: GHG Emissions – Millions Metric Tonnes CO2 Equivalent (MMT CO2e)**

	1990 (a)	2004 Inventory		2006	
		2004 (b)	Change 1990-2004	2006 (c)	Change 1990-2006
Gross California Emissions Included in the Inventory	433.29	484.40	+51.11 +12%	483.87	+50.58 +12%
Domestic Air Transport: Intrastate; Fuel Combustion – Jet Fuel	4.719 (1.1% of Gross)	2.804 (0.6% of Gross)	-1.915 -41%	3.498 (0.7% of Gross)	-1.221 -26%
Gross California Emissions Included in the Inventory + Emissions Excluded in the Inventory	519.89	528.56	+8.67 +1.7%	532.64	+12.75 +2.5%
Aviation Emissions Excluded from Inventory (Interstate and International)	33.954	32.916	-1.038 -3%	30.799	-3.155 -9%
All Aviation Emissions Included in Inventory + Emissions Excluded from Inventory	39.086 (8% of Gross)	35.720 (7% of Gross)	-3.366 -9%	34.297 (6% of Gross)	-4.789 -12%

Source: All emissions data from California Air Resources Board

(a) 1990 data from California Air Resources Board, Staff Report, California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit, Appendix A-2: California Greenhouse Gas Inventory for 1990 to (available at:

[http://www.arb.ca.gov/cc/inventory/pubs/reports/appendix\\_a2\\_Inventory\\_IPCC\\_All\\_1990.pdf](http://www.arb.ca.gov/cc/inventory/pubs/reports/appendix_a2_Inventory_IPCC_All_1990.pdf))

Gross California Emissions Included in the Inventory: p. 19; Domestic Air Transport: Intrastate; Fuel Combustion – Jet Fuel: p. 10; Gross California Emissions Excluded from the Inventory (59.02 MMT CO2e): p. 20; Aviation Emissions Excluded from the Inventory: p. 20

(b) 2004 data from California Air Resources Board, California Greenhouse Gas Inventory 1990-2004 (available at:

[http://www.arb.ca.gov/cc/inventory/archive/tables/ghg\\_inventory\\_ipcc\\_90-04\\_all\\_2007-11-19.pdf](http://www.arb.ca.gov/cc/inventory/archive/tables/ghg_inventory_ipcc_90-04_all_2007-11-19.pdf)).

Gross California Emissions Included in the Inventory: p. 22; Domestic Air Transport: Intrastate; Fuel Combustion – Jet Fuel: p. 12; Gross California Emissions Excluded from the Inventory (44.16 MMT CO2e): p. 23; Aviation Emissions Excluded from the Inventory: p. 23

(c) 2006 data from California Air Resources Board, California Greenhouse Gas Inventory 1990-2006 (available at:

[http://www.arb.ca.gov/cc/inventory/data/tables/ghg\\_inventory\\_ipcc\\_00-06\\_all\\_2009-03-13.pdf](http://www.arb.ca.gov/cc/inventory/data/tables/ghg_inventory_ipcc_00-06_all_2009-03-13.pdf)).

Gross California Emissions Included in the Inventory: p. 23; Domestic Air Transport: Intrastate; Fuel Combustion – Jet Fuel: p. 12; Gross California Emissions Excluded from the Inventory (48.77 MMT CO2e): p. 24; Aviation Emissions Excluded from the Inventory: p. 23

## ATTACHMENT A EMISSIONS AND ECONOMIC ACTIVITY DATA (CONTINUED)

**Table B: Revenue Passenger Miles (RPM) and Revenue Ton Miles (RTM) in California 1990 – 2006**

	<u>1990</u>		<u>2006</u>		<u>Percent Change 1990 – 2006</u>	
	RPMs	RTMs	RPMs	RTMs	RPMs	RTMs
<b>Intra-California</b>	5,610,080,200	17,820,630	6,804,583,904	93,790,160	21.3	426.3
<b>California-Other</b>	152,061,718,021	4,815,766,213	268,571,776,984	10,872,055,809	77.6	125.8
<b>Total California</b>	157,671,798,221	4,833,586,843	275,376,360,888	10,965,845,969	74.7	126.9

Source: U.S. DOT T-100 Database. Note: ATA has previously submitted similar data in other forums in which the “California Other” included only traffic outbound from California; this data includes both inbound and outbound traffic.